

Researching LAW

WINTER 2013

Vol 24 | No 1



**The Research Group on Legal Diversity
of the American Bar Foundation**

ABF American Bar Foundation
EXPANDING KNOWLEDGE • ADVANCING JUSTICE

The Research Group of the American

The American Bar Foundation is committed to expanding equity and opportunity within the legal profession and in society at large. It pursues this goal in the selection of its leadership, the hiring of its research faculty and professional staff, through undergraduate and doctoral fellowship programs that reach out to students from diverse social groups, through the recruitment and selection of Fellows of the American Bar Foundation, and through research programs and projects that examine issues of equity and opportunity.

To further our commitment to diversity, the American Bar Foundation seeks to establish a new Research Center on Diversity and Law to investigate urgent questions surrounding diversity in the legal profession, as well as equal justice and opportunity. The Center will build on the ABF's position as the preeminent research institute for the empirical study of law and the legal profession.

The ABF's Research Group on Legal Diversity lays the groundwork for the larger research program that the new Research Center will undertake. Established in 2011, the Research Group examines trends in diversity in the legal profession and other institutions of justice and the impact of diversity on legal processes and institutions. The Research Group seeks to build a

community of scholars with active research agendas relating to issues of diversity and to be an incubator for new projects and directions in the field, while also making important links to the world of policy and practitioners. Ultimately, we hope that the collaboration among the group will lead to the development of proposals for cutting-edge original research under the aegis of the Research Center. At the same time, the Research Group and Center will strive to keep building connections to more fully engage with legal practitioners, employers and policy makers to advance the cause of full inclusion in the legal profession and equal justice under the law.

The Research Group on Legal Diversity is currently composed of twenty-nine scholars from the fields of anthropology, business

and organizational management, economics, history, law, political science, psychology, and sociology. The scholars hold appointments in law schools, business schools and university departments across the United States and in Canada and all have published widely in their fields. The Research Group is directed by Robert L. Nelson, Director, American Bar Foundation; David Wilkins, Lester Kissel Professor of Law, Harvard Law School; and Ronit Dinovitzer, Associate Professor of Sociology, University of Toronto. Nelson's research focuses on the social organization of law practice and the relationship between law and social inequality. He has published in numerous journals on the topic of transformations in the legal profession, the role of corporate counsel, gender

on Legal Diversity

Bar Foundation

Our goal is to learn from each other, to challenge each other about how to develop rigorous research that can be used in the real world, and to build new partnerships for innovation and research.

inequality, and employment discrimination. He is co-author with John P. Heinz, Rebecca L. Sandefur and Edward O. Laumann of *Urban Lawyers: The New Social Structure of the Bar* (University Chicago Press, 2005) and, with Laura Beth Nielsen, *Handbook of Employment Discrimination Research: Rights and Realities* (Springer, 2005). David Wilkins is one of nation's leading experts on the legal profession, especially in the areas of professional ethics, law and globalization, and diversity. He serves as the Director of the Program on the Legal Profession at Harvard Law School and, among many other honors, was the 2011 recipient of the Fellows of the American Bar Foundation's Outstanding Scholar Award. In addition to authoring numerous articles, Wilkins is co-

author with Andrew L. Kaufman of *Problems in Professional Responsibility for a Changing Profession* (Carolina Academic Press 5th ed. 2009) and is the sole author of *The Black Bar: The Legacy of Brown v. Board of Education and the Future of Race and the American Legal Profession*, forthcoming from Oxford University Press. Dinovitzer's research focuses on stratification within the legal profession, a

topic on which she has published widely. Her research has examined patterns of job satisfaction, the effect of social class on legal careers, and geographic mobility among lawyers. In addition to her individual research, Dinovitzer, along with Nelson, is involved in the ABF's path-breaking "After the JD" project, a national longitudinal study of the careers of law graduates who passed the Bar in 2000.



**The Research Group
on Legal Diversity**
of the American Bar Foundation

Kick-off Conference of the Research Group on Legal Diversity held at ABF

On May 11–12, 2012, the American Bar Foundation convened “The Future of Legal Diversity: Kick-off Conference of the Research Group on Legal Diversity” to begin the work of establishing the Center and building new partnerships for innovation and research in the area of legal diversity. During these two days, early supporters of the ABF’s new diversity initiative shared research and experiences and discussed future directions for the Research Center. In attendance were prominent figures from legal and corporate diversity departments, as well as members of the Research Group on Legal Diversity, other scholars, representatives from the ABA, and ABF staff.

ABF Director Robert L. Nelson began the conference with welcoming remarks that laid out the need for and collaborative nature of the Research Group on Legal Diversity. As Nelson said, “What is new and exciting today is an effort to bring together practitioner leaders working on diversity with some of the leading scholars doing research on diversity and law. Our goal is to learn from each other, to challenge each other about how to develop rigorous research that can be used in the real world, and to build new partnerships for innovation and research.”

As Nelson noted, the need for collaboration between practitioners and researchers in legal diversity is greater than ever, given the forces that are transforming the legal profession. “This is a time of critical need for these partnerships; the

legal profession is undergoing profound changes. Law firms are being forced to reconsider the nature of their business models. Globalization is transforming professional services and challenging traditional structures of ethical regulation. The careers of lawyers are characterized by unprecedented levels of mobility and uncertainty. Law schools are under attack for failing to equip their students for practice, even while those students take on enormous debt. All these forces can have a profound impact on the future of diversity in the legal profession. And, in turn, the fate of diversity within the legal profession has important implications for the legitimacy of law. If the legal profession does not reflect the society it serves, it will not be an effective instrument for providing justice in a system governed by the rule of law.”

The first day of the conference, attended by over fifty practitioners and scholars, was divided into three sessions, “Organizing for Diversity,” “Beyond the Business Case,” and “Globalization, Cognition, and Change.” Among the nearly twenty speakers, moderators and commentators participating that day, Columbia Business School Professor Damon Phillips reported research demonstrating that part-time leave policies in law firms do not necessarily result in higher rates of retention or promotion for female associates. ABF Affiliated Scholar Monique Payne Pikus presented research from ABF’s “After the JD” study that showed that women, and especially women of color, report much higher levels of social isolation in law firms—a pattern that helps explain the higher attrition of those groups from law firms. UCLA Law Professor Jerry

Kang presented findings on the potential role of implicit bias in limiting the career opportunities of minorities and women in law firms and corporate law departments, as well as surprisingly simple ways to reduce the effects of implicit bias in hiring, evaluation, and promotion decisions.

Each session was moderated and commented upon by a practitioner, leading to lively discussion and questions amongst the group about both the gaps and the points of intersection between research and practice. A small sampling of practitioner remarks is presented here. Leslie Richards-Yellen of Hinshaw & Culbertson LLP, commenting on the session “Organizing for Diversity” noted that, in her experience, law firms will often blame the “pipeline” for their own lack of diversity, thus shielding themselves from their own bias, while, in her opinion, plenty of qualified diverse job candidates are available. Regarding maternity leave policies, Richards-Yellen noted that firms that advertise “maternity leave” may be conceptualizing the effect of parenting on attorneys differently than those that offer “daycare” and other support services to

parents. Richards-Yellen also noted the importance of interpersonal characteristics in explaining which young attorneys stay with large law firms, and encouraged researchers to further pursue the question of how aspirations to achieve social change might shape minority law students’ orientation toward their future careers.

Michele Coleman Mayes, former General Counsel of Allstate Insurance Company, presented “The Call to Action and the Leadership Council on Legal Diversity” as part of the “Organizing for Diversity” session. The Leadership Council on Legal Diversity (LCLD), formed in 2009, is an organization of corporate chief legal officers and law firm managing partners dedicated to creating a diverse legal profession. The current focus of the Council, Mayes noted, is on gender and racial and ethnic diversity, with a particular emphasis on the pipeline, talent development, partnerships and teams, and strategy and innovation. Fundamentally, Mayes commented, the Leadership Council on Legal Diversity is about talent in all its diverse forms. For example, the Partnerships and Teams committee, then chaired

by Mayes, is using its influence to urge firms and companies to make sure they seriously consider as diverse a slate of people as possible when hiring, appointing and promoting under the Inclusion Impact Statement initiative of the LCLD.

Barack Echols, a litigation partner at Kirkland & Ellis LLP, responded to the session “Beyond the Business Case.” Echols identified a recurring theme in the session’s presentations—that the business case is fundamentally about people. The ability to build and maintain relationships is essential for both the success of individual attorneys and, just as importantly, the firm as a whole, Echols noted. This can be a particular challenge for minority lawyers, who often lack workplace mentors from backgrounds similar to their own.

On the second day of the conference researchers presented papers around the themes of “Race and Gender Inequalities in Legal Careers,” “Exploring Inequalities in Law and the Legal Profession,” and “New Directions in Research in Legal Careers.”

The need for collaboration between practitioners and researchers in legal diversity is greater than ever, given the forces that are transforming the legal profession.



Michele Coleman Mayes, former General Counsel of Allstate Insurance Company, presents “The Call to Action and the Leadership Council on Legal Diversity.”



FROM LEFT TO RIGHT: **Keith Earley** of Finnegan, Henderson, Farabow Garrett & Dunner, LLP, **Carole Silver** of Indiana University, and **Damon J. Phillips** of Columbia University



FROM LEFT TO RIGHT: ABF Board Member and Campaign Steering Committee Member **Walter L. Sutton, Jr.**, Research Group Co-Director **David Wilkins**, ABF Board Member and Campaign Co-Chair **David S. Houghton**, Research Group Co-Director **Ronit Dinovitzer** and ABF Director and Research Group Co-Director **Robert L. Nelson**



Leslie Richards-Yellen of Hinshaw & Culbertson LLP comments on the panel “Organizing for Diversity.”



Theresa Cropper of Perkins Coie LLP moderates the session “Organizing for Diversity.”



Jerry Kang of UCLA School of Law spoke on “Social Cognition and Diversity.”



Gerald Pauling II of Seyfarth Shaw LLP shares his thoughts on the panel “Beyond the Business Case”



Sally Olson of Sidley Austin LLP responds to the panel “Beyond the Business Case.”



Barack Echols of Kirkland & Ellis LLP comments on the panel “Beyond the Business Case.”



ABF Affiliated Scholar **Monique Payne Pikus** presented “Racial and Gender Differences in Career Attainment in After the JD 2.”



András Tilcsik of Harvard University confers with **Keith Earley** of Finnegan, Henderson, Farabow, Garrett & Dunner, LLP.



Damon J. Phillips, James P. Gorman Professor of Business Strategy, Columbia University, presents “Maternity Leave Policies in Law Firms” to the Research Group on Legal Diversity, May 11, 2012.



Michael Allen, Senior Attorney at Microsoft Corporation comments on the panel “Globalization, Cognition, and Change” as **Donna Corey**, Project Manager, Leadership Council on Legal Diversity at Microsoft, looks on.



Walter L. Sutton, Jr. of Walmart Stores, Inc. addresses the conference.



Gail Kim of the Chicago Committee on Minorities in Large Law Firms poses a question.

The Future of Legal Diversity: Kickoff Conference of the Research Group on Legal Diversity

FRIDAY, MAY 11: Practitioners and Scholars Joint Sessions

INTRODUCTION

Robert L. Nelson, *ABF Director; Research Professor, Northwestern University, Sociology and Law*

David S. Houghton, *Lieben, Whitted, Houghton, Slowiazcek & Cavenagh*

Walter L. Sutton, Jr., *Walmart Stores, Inc.*

“Why So Few?: From Professional Cultures to Professional Identities”

Carroll Seron, *University of California Irvine, School of Social Ecology*

Comments

Leslie Richards-Yellen, *Hinshaw & Culbertson*

“Comparing the Persuasive Effects of Different Cases for Diversity”

Jamillah Bowman, *ABF Doctoral Fellow*; Paul Hastings, *Stanford JD/PhD*

Comments

Sarah “Sally” Olson, *Sidley Austin*
Gerald L. Pauling, *Seyfarth Shaw*
Barack Echols, *Kirkland & Ellis*

FIRST SESSION

ORGANIZING FOR DIVERSITY

Moderator: Theresa Cropper, *Perkins Coie*

“Recruiting and Hiring in Elite Professional Service Firms”

Lauren Rivera, *Kellogg School of Management*

“Maternity Leave Policies in Law Firms”

Damon Phillips, *Columbia University, Business School*

“New Shape(s) of Lawyer Careers”

Ronit Dinovitzer, *ABF Faculty Fellow, University of Toronto, Sociology*

SECOND SESSION

BEYOND THE BUSINESS CASE

Moderator: Walter Sutton, Jr., *Walmart Stores, Inc.*

“The Call to Action and the LCLD”

Michele Coleman Mayes, *Allstate Insurance Company*

“Revisiting the Business Case for Legal Diversity”

David Wilkins, *ABF Affiliated Scholar, Harvard Law School*

“Models of Law Firm Organization and Diversity: A Case Study”

William Henderson, *Indiana University School of Law*

THIRD SESSION

GLOBALIZATION, COGNITION, AND CHANGE

Moderator: David S. Houghton, *Lieben, Whitted, Houghton, Slowiazcek & Cavenagh*

“Gender Equality and Globalization”

Carole Silver, *ABF Affiliated Scholar, Indiana University School of Law*

“Racial and Gender Differences in Career Attainment in AJD 2”

Monique Payne Pikus, *ABF Affiliated Scholar*

“Social Cognition and Diversity”

Jerry Kang, *UCLA School of Law*

Comments

Michael Allen, *Microsoft Corporation*

May 11–12, 2012

American Bar Foundation • Chicago, IL

SATURDAY, MAY 12: Dedicated Scholar Sessions

DAY 2 WELCOME

Robert L. Nelson, *ABF Director; Research Professor, Northwestern University, Sociology and Law*

FIRST SESSION

RACE AND GENDER INEQUALITIES IN LEGAL CAREERS

Moderator: Carroll Seron, *University of California Irvine, School of Social Ecology*

“Early Career Movements and the Georgetown Alumni Survey”

Jane Ohgami, *Georgetown Law Doctoral Fellow*

“Gender Differentiation: What We Know and Do Not Know After Wave 2 of AJD”

Joyce Sterling, *University of Denver College of Law*

“Risk vs. Potential: Implicit Bias in the Legal Academy”

Elizabeth Mertz, *ABF Research Professor, University of Wisconsin Law School*

SECOND SESSION

EXPLORING INEQUALITIES IN LAW AND THE LEGAL PROFESSION

Moderator: Elizabeth Mertz, *ABF Research Professor, University of Wisconsin Law School*

“Jewish Lawyers and the Disappearance of the Jewish Law Firm”

Vicky Woeste, *ABF Research Professor*

“African Americans’ Use of Law Before the Civil Rights Era”

Dylan Penningroth, *ABF Research Professor, Northwestern University, History*

“Situated Identity and Public Defenders”

Shaun Ossei-Owusu, *ABF Doctoral Fellow, UC Berkeley, African American Studies*

“Litigant Wealth Effects on Outcomes and Precedent”

Albert Yoon, *University of Toronto, Faculty of Law*

THIRD SESSION

NEW DIRECTIONS IN RESEARCH IN LEGAL CAREERS

Moderator: Damon Phillips, *Columbia University, Business School*

“Race, Class, and Educational Debt in Lower-paying Law Jobs”

Rebecca Sandefur, *ABF Research Social Scientist, University of Illinois, Sociology*

“German/US Gender Comparisons”

Gabriele Plickert, *ABF Research Social Scientist*

“Audit Studies of Employment Discrimination”

András Tilcsik, *Harvard University, Organizational Behavior*

Future directions discussion

Moderators:

Ronit Dinovitzer, *ABF Faculty Fellow, University of Toronto, Sociology*

David Wilkins, *ABF Affiliated Scholar, Harvard Law School*

Second Annual Conference of the Research Group on Legal Diversity to focus on the Intersection of Talent and Diversity in Professional Fields

The 2013 conference will be organized around the theme of talent, with a particular interest in how predicting, measuring, developing, promoting, and retaining talent in professional fields intersects with diversity along the lines of race/ethnicity, gender, sexual orientation, disability, and religion.

On May 10–11, 2013, the Research Group on Legal Diversity will convene its second annual conference at the American Bar Foundation, entitled “Pursuing Diverse Talent in Legal and Professional Services: Research Within and Across Professions, Organizations, and Societies.” The 2013 conference will be organized around the theme of talent, with a particular interest in how predicting, measuring, developing, promoting, and retaining talent in professional fields intersects with diversity along the lines of race/ethnicity, gender, sexual orientation, disability, and religion. While the core interest of the Research Group is legal diversity, the premise of this conference is that much can be learned by considering these issues within and across different professions, organizations, and societies.

Like the first conference, the 2013 conference will consist of public sessions on Friday afternoon that will feature mixed panels of research presentations by scholars and commentary by practitioner-leaders. Saturday sessions will feature research roundtables by members of the Research Group on Legal Diversity and other invited authors. In order to reach as wide an audience as possible, the conference papers will be submitted for publication as a collection to a law review, a symposium issue of a refereed journal, or an edited book.

More information on the Research Group on Legal Diversity can be found on the ABF website at: http://www.americanbarfoundation.org/research/The_Research_Group_on_Legal_Diversity.html



The Research Group on Legal Diversity

of the American Bar Foundation

Leonard Bierman, *Texas A&M University, Business*

Jamillah Bowman, *ABF Doctoral Fellow, Stanford JD/PhD, Sociology and Law*

Elizabeth Chambliss, *New York Law School*

Ronit Dinovitzer, *ABF Faculty Fellow, University of Toronto, Sociology*

Bryant Garth, *ABF Director Emeritus, UC Irvine School of Law*

Elizabeth Gorman, *University of Virginia, Sociology*

Mitu Gulati, *Duke Law School*

John Hagan, *ABF Research Professor, Northwestern University, Sociology and Law*

John Heinz, *ABF Research Professor Emeritus, Northwestern Law Emeritus*

William Henderson, *Indiana University School of Law*

Jerry Kang, *UCLA School of Law*

Fiona Kay, *Queens University, Canada, Sociology*

Elizabeth Mertz, *ABF Research Professor, University of Wisconsin Law School*

Robert Nelson, *ABF Director, Northwestern University, Sociology and Law*

Shaun Ossei-Owusu, *ABF Doctoral Fellow, UC Berkeley-African American Studies*

Monique Payne Pikus, *ABF Affiliated Scholar*

Dylan Penningroth, *ABF Research Professor, Northwestern University, History*

Damon Phillips, *Columbia University, Business*

Gabriele Plickert, *ABF Research Social Scientist, Sociology*

Lauren Rivera, *Kellogg School of Management*

Mary R. Rose, *University of Texas School of Law, Sociology and Law*

Rebecca Sandefur, *ABF Faculty Fellow, University of Illinois, Sociology*

Carroll Seron, *University of California Irvine, Social Ecology*

Carole Silver, *ABF Affiliated Scholar, Indiana University School of Law*

Joyce Sterling, *University of Denver College of Law*

András Tilcsik, *Harvard University, Organizational Behavior*

David Wilkins, *ABF Affiliated Scholar, Harvard Law School*

Victoria Saker Woeste, *ABF Research Professor, History*

Albert Yoon, *University of Toronto, Faculty of Law*

(Additional scholars will be added to this research group as the program progresses.)

The Fellows Research Chair in Diversity and Law

The American Bar Foundation has launched the “public” phase of the campaign to endow The Fellows Research Chair in Diversity and Law. The Fellows Research Chair will anchor a program of research to investigate urgent questions surrounding diversity in the legal profession, as well as issues of equal justice in the legal system and equality of opportunity in society. The Fellows Research Chair in Diversity and Law will be the first-ever endowed chair established by The Fellows of the American Bar Foundation. The Fellows Research Chair is an essential first step toward the creation of the American Bar Foundation Research Center on Diversity and Law. The Center will build on the ABF’s position as the preeminent research institute for the empirical study of law, and will address pressing issues on law and equality our society confronts as we look toward the future.

The ABF gratefully acknowledges these founding pledges and contributions made to the campaign to endow The Fellows Research Chair in Diversity and Law.*

Susan Frelich Appleton

Laurel G. Bellows

Mortimer M. Caplin

George B. Cauthen

David A. Collins

Doreen D. Dodson

Hon. Bernice B. Donald

Lauren B. Edelman

Ellen J. Flannery

George S. Frazza and the Frazza Family Foundation

Jean and Leonard Gilbert

Debby and Jimmy K. Goodman

John P. Heinz

Kay H. Hodge

Debra and David S. Houghton

William C. Hubbard

Linda A. Klein

Myles V. Lynk

Robert L. Nelson

William G. Paul

Richard Pena

Hon. Ellen F. Rosenblum

William Rowe

E. Thomas Sullivan

Walter L. Sutton, Jr.

David K.Y. Tang

David B. Wolfe

Stephen Zack

The American Bar Endowment Charitable Gift Fund on behalf of I.S. Leevy Johnson

Deere & Company Global Legal Services

Jenner & Block

The Kenneth & Harle Montgomery Foundation on behalf of Bryant G. Garth

The Leadership Council on Legal Diversity

Lorman Educational Services

Nelson Mullins Riley & Scarborough LLP

CORPORATE AND LAW FIRM LEADERSHIP CIRCLE: GIFTS AND PLEDGES OF \$50,000 AND ABOVE

Kirkland & Ellis LLP

Microsoft Corporation

Northrop Grumman Corporation

Sidley Austin Foundation

Walmart Stores, Inc.

*Current as of mid-December 2012

The Fellows Research Chair in Diversity and Law

The fate of diversity within the legal profession has important implications for the legitimacy of law. If the legal profession does not reflect the society it serves, it will not be an effective instrument for providing justice in a system governed by the rule of law.

HONORARY CAMPAIGN CO-CHAIRS

Dennis W. Archer
Detroit, MI

Martha W. Barnett
Tallahassee, FL

Robert J. Grey, Jr.
Richmond, VA

Roberta Cooper Ramo
Albuquerque, NM

Stephen N. Zack
Miami, FL

CAMPAIGN CO-CHAIRS

David S. Houghton
Omaha, NE

Jimmy K. Goodman
Oklahoma City, OK

CAMPAIGN STEERING COMMITTEE

Laurel G. Bellows
Chicago, IL

Brooksley E. Born
Washington, D.C.

Ellen J. Flannery
Washington, D.C.

Kay H. Hodge
Boston, MA

William C. Hubbard
Columbia, SC


Myles V. Lynk
Tempe, AZ

Gerald L. Pauling II
Chicago, IL

Richard Pena
Austin, TX

Walter L. Sutton, Jr.
Bentonville, AR

David K.Y. Tang
*Seattle, WA and
Beijing, China*



**THE PERFECT
BALANCE
BETWEEN
INSURANCE
TO PROTECT
YOUR LOVED
ONES AND
HELPING
OTHERS**




There's nothing quite like ABE-sponsored insurance plans. Designed exclusively for ABA Members, they offer affordable coverage from trusted insurers and the opportunity to give back to the good works of the legal profession.

**INSURANCE
EXCLUSIVELY
for ABA Members**

ABE
American Bar Endowment
Insuring your life's needs.
Advancing your life's work.



800-621-8981
www.abendowment.org?ad
Scan this QR code

FIND US ON
  

For additional information about the campaign, please contact Lucinda Underwood, Director of Development, at 312.988.6573, or Jennie Casavant, Director of The Fellows, at 312.988.6511.

Researching

WINTER 2013
Vol 24 | No 1

LAW



PRESIDENT
Hon. Bernice B. Donald

DIRECTOR
Robert L. Nelson

WRITER | EDITOR
Katharine W. Hannaford

COPY EDITOR
Anne Godden-Segard

DESIGNER
Weiher Creative

CONTACT
Email: info@abfn.org

Phone: 312.988.6500

www.americanbarfoundation.org